

APPEAL, MITCHELL, TLC

Email All Attys

Email All Attys and Secondary Emails

U.S. District Court
Western District of Oklahoma[LIVE] (Oklahoma City)
CIVIL DOCKET FOR CASE #: 5:24-cv-00498-J

Trupia v. Heritage Hard Assets LLC et al
Assigned to: Judge Bernard M. Jones
Case in other court: Oklahoma County District Court,
CJ-24-02684
Cause: 28:1331 Fed. Question

Date Filed: 05/15/2024
Jury Demand: Plaintiff
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: Federal Question

Plaintiff

Anthony Trupia

represented by **Anthony Trupia**
605 SE 21st St
Oklahoma City, OK 73129
PRO SE

V.

Defendant

Heritage Hard Assets LLC

represented by **Zachary Dean Ludens**
Zebersky Payne Shaw Lewenz, LLP
110 Southeast 6th St.
Suite 2900
Fort Lauderdale, FL 33301
954-595-6075
Fax: 954-989-7781
Email: zludens@zpllp.com
ATTORNEY TO BE NOTICED

Defendant

Kyle Patton
*individually as Manager/Officer of
Heritage Hard Assets LLC*

represented by **Zachary Dean Ludens**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

HLV Ventures
an unregistered New York company

represented by **Aaron C Tifft**
Hall, Estill, Hardwick, Gable, Golden &
Nelson, P.C.
521 East 2nd St.
Suite 1200
Tulsa, OK 74120
918-594-0818
Email: atiftt@hallestill.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark Banner
Hall Estill–TULSA
320 S Boston Ave
Suite 200
Tulsa, OK 74103–3706
918–594–0400
Fax: 918–594–0505
Email: mbanner@hallestill.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Reagan Gold Group LLC

represented by **Aaron C Tifft**
(See above for address)
ATTORNEY TO BE NOTICED

Mark Banner
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Steve Francis
*individually as Manager/Officer of
Reagan Gold Group LLC*

Defendant

World Harvest Church Inc

Defendant

Rod Parsley
*individually as Manager/Officer of World
Harvest Church Inc*

Defendant

South Bay Galleries LLC

represented by **Aaron C Tifft**
(See above for address)
ATTORNEY TO BE NOTICED

Mark Banner
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Brandon Mendelson
*individually as Manager/Officer of South
Bay Galleries LLC*

Defendant

Telnyx LLC

represented by **Brooks Allen Richardson**
Gable Gotwals
499 W. Sheridan Ave.
Ste 2200
Oklahoma City, OK 73102
405-568-3310
Fax: 405-235-2875
Email: brichardson@gablelaw.com
ATTORNEY TO BE NOTICED

Defendant

David Casem

*individually as Manager/Officer of
Telnyx LLC*

Defendant

Ian Either

*individually as Manager/Officer of
Telnyx LLC*

Defendant

James Whedbee

*individually as Manager/Officer of
Telnyx LLC*

Defendant

Mandi Mena

*individually as Manager/Officer of
Telnyx LLC*

Defendant

Onvoy LLC

represented by **Ezra Dodd Church**
Morgan Lewis & Bockius, LLP
2222 Market Street
Philadelphia, PA 19103
215-963-5710
Fax: 215-963-5001
Email: ezra.church@morganlewis.com
ATTORNEY TO BE NOTICED

Gerard M D'Emilio

Gable & Gotwals-OKC
499 W Sheridan Ave
BOK Park Plaza
Suite 2200
Oklahoma City, OK 73102
405-235-5500
Fax: 405-235-2875
Email: gdemilio@gablelaw.com
ATTORNEY TO BE NOTICED

Heidi Rasmussen

Morgan, Lewis & Bockius LLP
1000 Louisiana Street
Ste 4000

Houston, TX 77002

713-890-5000

Fax: 713-890-5001

Email: heidi.rasmussen@morganlewis.com

ATTORNEY TO BE NOTICED

Nicholas V Merkley

Gable & Gotwals-OKC

499 W Sheridan Ave

BOK Park Plaza

Suite 2200

Oklahoma City, OK 73102

405-235-5500

Fax: 405-235-2875

Email: nmerkley@gablelaw.com

ATTORNEY TO BE NOTICED

Defendant

Brett Scorza

*individually as Manager/Officer of
Onvoy LLC*

Defendant

James Hynes

*individually as Manager/Officer of
Onvoy LLC*

Defendant

G Edwards Evans

*individually as Manager/Officer of
Onvoy LLC*

Defendant

Matthew Carter, Jr

*individually as Manager/Officer of
Onvoy LLC*

Defendant

Level 3 Communications LLC

represented by **John H Tucker**

Rhodes Hieronymus Jones Tucker & Gable
PO Box 21100

Tulsa, OK 74121-1100

918-582-1173

Fax: 918-592-3390

Email: jtuckercourts@rhodesokla.com

ATTORNEY TO BE NOTICED

Defendant**Jeff Storey***individually as Manager/Officer of Level
3 Communications LLC***Defendant****Zebersky Payne Shaw Lewenz***a Florida law firm*represented by **Zachary Dean Ludens**

(See above for address)

ATTORNEY TO BE NOTICED

Defendant**Zachary D Ludens***individually as an attorney of Zebersky
Payne Shaw Lewenz*represented by **Zachary Dean Ludens**

(See above for address)

ATTORNEY TO BE NOTICED

Defendant**FNU Doe***sued as Does 1 through 100, inclusive*

Date Filed	#	Docket Text
05/15/2024	<u>1</u>	NOTICE OF REMOVAL from Oklahoma County District Court, case number CJ-2024-2684 filed by HLV Ventures. (Attachments: # <u>1</u> Exhibit 1 – Petition, # <u>2</u> Exhibit 2 – Summons issued to HLV Ventures, # <u>3</u> Exhibit 3 – Okla. County Civil Docket, # <u>4</u> Civil Cover Sheet)(ekw) (Entered: 05/16/2024)
05/16/2024	<u>2</u>	ENTRY of Appearance by Aaron C Tiftt on behalf of HLV Ventures (Tiftt, Aaron) (Entered: 05/16/2024)
05/16/2024		PAYMENT FOR A CIVIL CASE (<i>Removal</i>) Filing fee \$ 405, receipt number AOKWDC-4434645. (Tiftt, Aaron) (Entered: 05/16/2024)
05/16/2024	<u>3</u>	ENTRY of Appearance by Mark Banner on behalf of HLV Ventures (Banner, Mark) (Entered: 05/16/2024)
05/20/2024	<u>4</u>	NOTICE (other) by Onvoy LLC re <u>1</u> Notice of Removal, <i>Notice of Joinder</i> (Merkley, Nicholas) (Entered: 05/20/2024)
05/20/2024	<u>5</u>	ENTRY of Appearance by Nicholas V Merkley on behalf of Onvoy LLC (Merkley, Nicholas) (Entered: 05/20/2024)
05/20/2024	<u>6</u>	ENTRY of Appearance by Zachary Dean Ludens on behalf of Heritage Hard Assets LLC, Zachary D Ludens, Kyle Patton, Zebersky Payne Shaw Lewenz (Ludens, Zachary) (Entered: 05/20/2024)
05/20/2024	<u>7</u>	WAIVER OF SERVICE Returned Executed by Defendant Heritage Hard Assets LLC. Heritage Hard Assets LLC waiver sent on 5/20/2024, answer due 7/19/2024. (Ludens, Zachary) (Entered: 05/20/2024)
05/20/2024	<u>8</u>	

		WAIVER OF SERVICE Returned Executed by Defendant Kyle Patton. Kyle Patton waiver sent on 5/20/2024, answer due 7/19/2024. (Ludens, Zachary) (Entered: 05/20/2024)
05/20/2024	<u>9</u>	WAIVER OF SERVICE Returned Executed by Defendant Zachary D Ludens. Zachary D Ludens waiver sent on 5/20/2024, answer due 7/19/2024. (Ludens, Zachary) (Entered: 05/20/2024)
05/20/2024	<u>10</u>	DISCLOSURE STATEMENT – LLC by Heritage Hard Assets LLC, Zachary D Ludens, Kyle Patton, Zebersky Payne Shaw Lewenz <i>Certificate of Interested Persons and Corporate Disclosure Statement</i> . (Ludens, Zachary) (Entered: 05/20/2024)
05/20/2024	<u>11</u>	NOTICE (other) by Heritage Hard Assets LLC, Zachary D Ludens, Kyle Patton, Zebersky Payne Shaw Lewenz re <u>1</u> Notice of Removal, <i>Notice of Joinder in Removal/Consent to Removal</i> (Ludens, Zachary) (Entered: 05/20/2024)
05/20/2024	<u>12</u>	ENTRY of Appearance by Brooks Allen Richardson on behalf of Telnyx LLC (Richardson, Brooks) (Entered: 05/20/2024)
05/20/2024	<u>13</u>	NOTICE (other) by Telnyx LLC re <u>1</u> Notice of Removal, <i>Notice of Joinder</i> (Richardson, Brooks) (Entered: 05/20/2024)
05/20/2024	<u>14</u>	ENTRY of Appearance by John H Tucker on behalf of Level 3 Communications LLC (Tucker, John) (Entered: 05/20/2024)
05/20/2024	<u>15</u>	NOTICE (other) by Level 3 Communications LLC re <u>1</u> Notice of Removal, – <i>Defendant Level 3 Communications, LLC's Consent to Removal</i> – (Tucker, John) (Entered: 05/20/2024)
05/21/2024	<u>16</u>	CERTIFICATE of Compliance with Requirements to Give Notice of Removal. (Attachments: # <u>1</u> Exhibit 1 – Notice of Filing Notice of Removal)(Tifft, Aaron) (Entered: 05/21/2024)
05/21/2024	<u>17</u>	DISCLOSURE STATEMENT – LLC by Onvoy LLC . (Merkley, Nicholas) (Entered: 05/21/2024)
05/21/2024	<u>18</u>	DISCLOSURE STATEMENT – LLC by Telnyx LLC . (Richardson, Brooks) (Entered: 05/21/2024)
05/22/2024	<u>19</u>	DISCLOSURE STATEMENT – LLC by HLV Ventures . (Tifft, Aaron) (Entered: 05/22/2024)
05/22/2024	<u>20</u>	MOTION to Dismiss <i>Plaintiff's Complaint</i> by HLV Ventures. (Tifft, Aaron) (Entered: 05/22/2024)
05/23/2024	<u>21</u>	MOTION for Extension of Time to Answer or Otherwise Respond by Telnyx LLC. (Richardson, Brooks) (Entered: 05/23/2024)
05/23/2024	<u>22</u>	ORDER granting <u>21</u> Motion for Extension of Time to Answer or Otherwise Respond.IT IS THEREFORE ORDERED that Telnyx LLC shall file its answer or otherwise respond to Plaintiffs Complaint on or before June 17, 2024. Signed by Judge Scott L. Palk on 5/23/2024. (cps) (Entered: 05/23/2024)
05/23/2024	<u>23</u>	MOTION for Extension of Time to Answer or Otherwise Respond to Complaint by Onvoy LLC. (Merkley, Nicholas) (Entered: 05/23/2024)
05/24/2024	<u>24</u>	

		ORDER granting <u>23</u> Motion for Extension of Time to Answer or Otherwise Respond to Complaint. IT IS THEREFORE ORDERED that Defendant, Onvoy, LLC is granted an extension of time, until and including June 26, 2024, or fourteen (14) days after the Court rules on any motion for remand that may be filed by Plaintiff, whichever is later, within which to answer or otherwise respond to Plaintiff's Complaint. Signed by Judge Scott L. Palk on 5/24/2024. (cps) (Entered: 05/24/2024)
05/24/2024	<u>25</u>	ANSWER to Complaint (Notice of Removal) – <i>Defendant Level 3 Communications, LLC's Answer to Plaintiff's Complaint – Dkt. 1–2</i> – by Level 3 Communications LLC.(Tucker, John) (Entered: 05/24/2024)
05/24/2024	<u>26</u>	DISCLOSURE STATEMENT – LLC by Level 3 Communications LLC . (Tucker, John) (Entered: 05/24/2024)
05/27/2024	<u>27</u>	MOTION for Order <i>Motion for Relief from Local Counsel Requirement</i> by Heritage Hard Assets LLC, Kyle Patton, Zebersky Payne Shaw Lewenz. (Attachments: # <u>1</u> Proposed Order)(Ludens, Zachary) (Entered: 05/27/2024)
05/27/2024	<u>28</u>	MOTION for Extension of Time to File Answer re <u>1</u> Notice of Removal, <i>or Otherwise Respond to Complaint (Motion is Opposed)</i> by Zebersky Payne Shaw Lewenz. (Attachments: # <u>1</u> Proposed Order)(Ludens, Zachary) (Entered: 05/27/2024)
05/28/2024	<u>29</u>	MOTION titled, "Plaintiff's Opposition To Motion To Dismiss Motion For Expedited Discovery, and Motion To Remand" by Anthony Trupia. (dtb) (Entered: 05/28/2024)
05/28/2024	<u>30</u>	MOTION titled, "Plaintiff's Motion For Access TO ECF/ E–File" by Anthony Trupia. (dtb) (Entered: 05/28/2024)
05/28/2024	<u>31</u>	ORDER granting <u>27</u> Motion for Relief from Local Counsel Requirement. The Court, however, reserves the right to reinstate the requirement should it appear local counsel would be helpful in the adjudication and/or resolution of this case. Signed by Judge Scott L. Palk on 5/28/2024. (cps) (Entered: 05/28/2024)
05/28/2024	<u>32</u>	ORDER granting <u>28</u> re MOTION for Extension of Time to File Answer re <u>1</u> Notice of Removal. IT IS THEREFORE ORDERED that Defendant Zebersky Payne Shaw Lewenz LLC shall answer or otherwise respond to Plaintiff's Complaint on or before June 27, 2024. Signed by Judge Scott L. Palk on 5/28/2024. (cps) (Entered: 05/28/2024)
05/31/2024	<u>33</u>	STICKEN REPLY by Defendant HLV Ventures re <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint</i> , <u>29</u> MOTION for Order (<i>Plaintiff's Opposition to Motion to Dismiss</i>) filed by HLV Ventures. (Tifft, Aaron) Modified on 6/14/2024 to show document has been stricken (cps). (Entered: 05/31/2024)
06/07/2024	<u>34</u>	ORDER denying <u>30</u> Motion for Access to ECF/E–File. Signed by Judge Scott L. Palk on 6/7/2024. (cps) (Entered: 06/07/2024)
06/11/2024	<u>35</u>	STRICKEN RESPONSE in Opposition re <u>29</u> MOTION for Order <i>Motion for Remand</i> filed by HLV Ventures. (Tifft, Aaron) Modified on 6/14/2024 to show document is stricken (cps). (Entered: 06/11/2024)
06/11/2024	<u>36</u>	STRICKEN RESPONSE in Opposition re <u>29</u> MOTION for Order <i>Motion for Expedited Discovery</i> filed by HLV Ventures. (Tifft, Aaron) Modified on 6/14/2024 to show document has been stricken (cps). (Entered: 06/11/2024)
06/13/2024	<u>37</u>	

		MOTION for Order titled, "Plaintiff's Motion Challenging Constitutionality of Federal Rule of Civil Procedure and Local Court Rules" by Anthony Trupia. (Attachments: # <u>1</u> Exhibit 1 – Supporting Document)(rp) (Entered: 06/13/2024)
06/13/2024	<u>38</u>	SECOND MOTION for Extension of Time to File Answer re <u>1</u> Notice of Removal, <i>Complaint</i> by Telnyx LLC. (Richardson, Brooks) (Entered: 06/13/2024)
06/14/2024	<u>39</u>	ORDER striking <u>29</u> Motion to Dismiss, Motion for Expedited Discovery, and Motion to Remand. The Court sua sponte grants Plaintiff a fourteen–day extension of time, or until June 28, 2024, to file a response to the Motion to Dismiss. And the Court sua sponte grants Defendant HLV Venture LLC seven days therefore, or until July 5, 2024 to file a reply in support of its motion to dismiss. Any additional relief requested by Plaintiff must be filed by separate motions. See Order for further details. Signed by Judge Scott L. Palk on 6/14/2024. (cps) (Entered: 06/14/2024)
06/14/2024	<u>40</u>	ORDER GRANTED IN PART <u>38</u> Motion for Extension of Time. The Court has stricken the Motion to Remand and therefore, any request for an extension of time tied to the filing of that Motion is DENIED . Defendant Telnyx LLC shall answer or otherwise respond to Plaintiffs Complaint on or before June 27, 2004.Signed by Judge Scott L. Palk on 6/14/2024. (cps) Modified on 6/14/2024 to reflect granted in part (cps). (Entered: 06/14/2024)
06/17/2024	<u>41</u>	MOTION for Leave to Appear Pro Hac Vice <i>For Ezra D. Church</i> Filing fee \$ 100, receipt number AOKWDC–4455708 by Onvoy LLC. (Attachments: # <u>1</u> Exhibit 1 – Request for Admission)(Merkley, Nicholas) (Entered: 06/17/2024)
06/17/2024	<u>42</u>	MOTION for Leave to Appear Pro Hac Vice <i>For Heidi Rasmussen</i> Filing fee \$ 100, receipt number AOKWDC–4455731 by Onvoy LLC. (Attachments: # <u>1</u> Exhibit 1 – Request for Admission)(Merkley, Nicholas) (Entered: 06/17/2024)
06/17/2024	<u>43</u>	ORDER granting <u>42</u> Motion to Appear Pro Hac Vice of Heidi Rasmussen. Provided that she submits an ECF registration form and files an entry of appearance consistent with Local Civil Rule 83.4. Signed by Judge Scott L. Palk on 6/17/2024. (cps) (Entered: 06/17/2024)
06/17/2024	<u>44</u>	ORDER granting <u>41</u> Motion to Appear Pro Hac Vice of Ezra Church. Provided that he submits an ECF registration form and files an entry of appearance consistent with Local Civil Rule 83.4. Signed by Judge Scott L. Palk on 6/17/2024. (cps) (Entered: 06/17/2024)
06/24/2024	<u>45</u>	MOTION for Leave to File an Amended Complaint by Anthony Trupia. (dtb) (Entered: 06/24/2024)
06/24/2024	<u>46</u>	MOTION for Entry of Default by Anthony Trupia. (dtb) (Entered: 06/24/2024)
06/24/2024	<u>47</u>	AFFIDAVIT in Support re <u>46</u> MOTION for Entry of Default filed by Anthony Trupia. (dtb) (Entered: 06/24/2024)
06/24/2024	<u>48</u>	RETURN OF SERVICE – NON SUMMONS by Anthony Trupia (dtb) (Entered: 06/24/2024)
06/24/2024	<u>49</u>	ENTRY of Appearance by Ezra Dodd Church on behalf of Onvoy LLC (Church, Ezra) (Entered: 06/24/2024)
06/24/2024	<u>50</u>	ENTRY of Appearance by Heidi Rasmussen on behalf of Onvoy LLC (Rasmussen, Heidi) (Entered: 06/24/2024)

06/24/2024	<u>51</u>	ENTRY of Appearance by Aaron C Tiftt on behalf of South Bay Galleries LLC (Tiftt, Aaron) (Entered: 06/24/2024)
06/24/2024	<u>52</u>	ENTRY of Appearance by Mark Banner on behalf of South Bay Galleries LLC (Banner, Mark) (Entered: 06/24/2024)
06/24/2024	<u>53</u>	MOTION for Extension of Time to File Answer <i>or Responsive Pleading Out of Time</i> by South Bay Galleries LLC. (Tiftt, Aaron) (Entered: 06/24/2024)
06/25/2024	<u>54</u>	ORDER striking <u>45</u> Motion to Amend/Correct Complaint. Signed by Judge Scott L. Palk on 6/25/2024. (cps) (Entered: 06/25/2024)
06/25/2024	<u>55</u>	ENTRY of Appearance by Gerard M D'Emilio on behalf of Onvoy LLC (D'Emilio, Gerard) (Entered: 06/25/2024)
06/25/2024	<u>56</u>	NOTICE (other) by South Bay Galleries LLC <i>of Consent to Notice of Removal</i> <u>1</u> (Tiftt, Aaron) (Entered: 06/25/2024)
06/26/2024	<u>57</u>	RESPONSE to Motion re <u>46</u> MOTION for Entry of Default <i>against South Bay Galleries LLC</i> filed by South Bay Galleries LLC. (Tiftt, Aaron) (Entered: 06/26/2024)
06/26/2024	<u>58</u>	MOTION to Dismiss <i>Plaintiff's Petition and Brief in Support</i> by Onvoy LLC. (Attachments: # <u>1</u> Exhibit 1 – Declaration of Stacy Graham)(Merkley, Nicholas) (Entered: 06/26/2024)
06/27/2024	<u>59</u>	MOTION to Dismiss <i>Plaintiff's Petition and Brief in Support</i> by Telnix LLC. (Richardson, Brooks) (Entered: 06/27/2024)
06/27/2024	<u>60</u>	MOTION to Dismiss <i>and Memorandum of Law in Support</i> by Heritage Hard Assets LLC, Zachary D Ludens, Kyle Patton, Zebersky Payne Shaw Lewenz. (Attachments: # <u>1</u> Affidavit Declaration of Kyle Patton in Support of Motion to Dismiss, # <u>2</u> Affidavit Declaration of Zachary Ludens in Support of Motion to Dismiss)(Ludens, Zachary) (Entered: 06/27/2024)
07/01/2024	<u>61</u>	NOTICE (other) titled, "Plaintiff's Opposition To All Motions To Dismiss" by Anthony Trupia (dtb) (Entered: 07/01/2024)
07/01/2024	<u>62</u>	NOTICE (other) titled, "Notice of Constitutional Question" by Anthony Trupia (dtb) (Entered: 07/01/2024)
07/01/2024	<u>63</u>	Summons Issued Electronically as to Matthew Carter, Jr, David Casem, Ian Either, G Edwards Evans, Steve Francis, James Hynes, Mandi Mena, Rod Parsley, Brett Scorza, Jeff Storey, James Whedbee. (rp) (Entered: 07/01/2024)
07/01/2024	<u>64</u>	MOTION to Strike <u>61</u> Notice (other) <i>of Plaintiff's Untimely "Opposition to All Motions to Dismiss"</i> by HLV Ventures. (Tiftt, Aaron) (Entered: 07/01/2024)
07/02/2024	<u>65</u>	ORDER denying <u>64</u> Defendant HLV Ventures LLC's Motion to Strike Plaintiff's Untimely "Opposition to All Motions to Dismiss" <u>61</u> and Brief in Support. Plaintiff is admonished to comply with the Court's deadlines in all future filings. Signed by Judge Scott L. Palk on 7/2/2024. (ks) (Entered: 07/02/2024)
07/05/2024	<u>66</u>	REPLY by Defendant HLV Ventures re <u>20</u> MOTION to Dismiss <i>Plaintiff's Complaint</i> filed by HLV Ventures. (Tiftt, Aaron) (Entered: 07/05/2024)
07/05/2024	<u>67</u>	RESPONSE in Opposition re <u>58</u> MOTION to Dismiss <i>Plaintiff's Petition and Brief in Support</i> filed by Anthony Trupia. (Attachments: # <u>1</u> Attachment 1 – Application for

		Admission Pro Hac Vice filed in Northern District of West Virginia, # <u>2</u> Attachment 2 – Order Denying Motions to Dismiss filed in Northern District of West Virginia)(ekw) (Entered: 07/05/2024)
07/08/2024	<u>68</u>	REPLY to Response to Motion re <u>58</u> MOTION to Dismiss <i>Plaintiff's Petition and Brief in Support</i> and <u>61</u> <i>Plaintiff's Opposition to All Motions to Dismiss</i> filed by Onvoy LLC. (Merkley, Nicholas) (Entered: 07/08/2024)
07/11/2024	<u>69</u>	DISCLOSURE STATEMENT – LLC by South Bay Galleries LLC . (Tifft, Aaron) (Entered: 07/11/2024)
07/12/2024	<u>70</u>	MOTION for Extension of Time to Reply by Anthony Trupia. (ekw) (Entered: 07/12/2024)
07/12/2024	<u>71</u>	NOTICE (other) by Heritage Hard Assets LLC, Zachary D Ludens, Kyle Patton, Zebersky Payne Shaw Lewenz re <u>70</u> MOTION for Extension of Time, <u>60</u> MOTION to Dismiss and <i>Memorandum of Law in Support Notice of No Opposition</i> (Ludens, Zachary) (Entered: 07/12/2024)
07/12/2024	<u>72</u>	REPLY in Support re <u>58</u> MOTION to Dismiss <i>Plaintiff's Petition and Brief in Support</i> filed by Onvoy LLC. (Merkley, Nicholas) (Entered: 07/12/2024)
07/17/2024	<u>73</u>	RECUSAL ORDER. Judge Scott L. Palk recused. Signed by Judge Scott L. Palk on 7/17/2024. (llg) (Entered: 07/17/2024)
07/17/2024	<u>74</u>	ENTER ORDER REASSIGNING CASE. Case reassigned to Judge Bernard M. Jones for all further proceedings. Entered at the direction of Judge Scott L. Palk on 7/17/2024. (llg) (Entered: 07/17/2024)
07/17/2024	<u>75</u>	RESPONSE to Motion re <u>70</u> MOTION for Extension of Time <i>to Reply</i> filed by Telnix LLC. (Richardson, Brooks) (Entered: 07/17/2024)
07/22/2024	<u>76</u>	SUPPLEMENT re <u>67</u> Response in Opposition to Motion, by Anthony Trupia. (Attachments: # <u>1</u> Attachment 1 – Lead Sellers, # <u>2</u> Attachment 2 – The Spam Machine, # <u>3</u> Attachment 3 – Model of Responsibility, # <u>4</u> Attachment 4 – Entity Summary Information, # <u>5</u> Attachment 5 – Entity Summary Information, # <u>6</u> Attachment 6 – Gmail, # <u>7</u> Attachment 7 – Pacer Search Results, # <u>8</u> Attachment 8 – Pacer Search Results, # <u>9</u> Attachment 9 – Pacer Search Results, # <u>10</u> Attachment 10 – Pacer Search Results, # <u>11</u> Attachment 11 – Best Buy Email)(naa) (Entered: 07/22/2024)
07/22/2024	<u>77</u>	MOTION to Dismiss by Steve Francis. (naa) *STRICKEN by Order <u>79</u> filed 7/24/2024 (Entered: 07/22/2024)
07/22/2024	<u>78</u>	DECLARATION by Steve Francis. (Attachments: # <u>1</u> Exhibit 1 – Demand Letter, # <u>2</u> Exhibit 2 – Order, # <u>3</u> Exhibit 3 – Ring Central Order Form, # <u>4</u> Exhibit 4 – Ring Central Admin Portal, # <u>5</u> Exhibit 5 – Call Log Activity)(naa) *STRICKEN by Order <u>79</u> filed 7/24/2024 (Entered: 07/22/2024)
07/24/2024	<u>79</u>	ORDER ~ Granting <u>77</u> The Court STRIKES the motion to dismiss filed by Steve Francis on behalf of himself and Defendant Reagan Gold Group LLC <u>77</u> and the motion's supporting evidence <u>78</u> . If Defendant Steve Francis wishes to appear pro se on behalf of himself, he may refile a motion to dismiss pertaining solely to his own defense. Signed by Judge Bernard M. Jones on 7/24/2024. (dwl) (Entered: 07/24/2024)
07/24/2024	<u>80</u>	

		MOTION to Strike re <u>77</u> Motion to Dismiss by Anthony Trupia. (naa) (Entered: 07/24/2024)
07/24/2024	<u>81</u>	ORDER ~ re <u>80</u> Plaintiff's Motion to Strike. Given this Court's prior Order, see <u>79</u> , the motion <u>80</u> is DENIED as moot. Signed by Judge Bernard M. Jones on 7/24/2024. (dwl) (Entered: 07/24/2024)
07/24/2024	<u>82</u>	MOTION to Strike <u>76</u> Supplement., [A Supplemental Brief to Plaintiff's Opposition to all Motions to Dismiss] by HLV Ventures. (Tifft, Aaron) (Entered: 07/24/2024)
07/25/2024	<u>83</u>	SUPPLEMENT to Plaintiff's Complaint by Anthony Trupia. (Attachments: # <u>1</u> Exhibit 1 – Call Log, # <u>2</u> Exhibit 2 – Contacts)(naa) (Entered: 07/25/2024)
07/31/2024	<u>84</u>	ENTRY of Appearance by Mark Banner on behalf of Reagan Gold Group LLC (Banner, Mark) (Entered: 07/31/2024)
07/31/2024	<u>85</u>	ENTRY of Appearance by Aaron C Tifft on behalf of Reagan Gold Group LLC (Tifft, Aaron) (Entered: 07/31/2024)
07/31/2024	<u>86</u>	MOTION for Leave to File Answer or Other Responsive Pleading Out of Time by Reagan Gold Group LLC. (Tifft, Aaron) (Entered: 07/31/2024)
07/31/2024	<u>87</u>	DISCLOSURE STATEMENT – LLC by Reagan Gold Group LLC. (Tifft, Aaron) (Entered: 07/31/2024)
09/12/2024	<u>88</u>	ORDER ~ Denying <u>37</u> Plaintiff's Motion Challenging Constitutionality of Federal Rule of Civil Procedure and Local Court Rules, as more fully set out in the Order. Signed by Judge Bernard M. Jones on 9/12/2024. (dwl) (Entered: 09/12/2024)
09/12/2024	<u>89</u>	Clerk's Denial of ENTRY OF DEFAULT ~ Denying <u>46</u> Motion for Entry of Default, as more fully set out in the Order. Signed by Judge Bernard M. Jones on 9/12/2024. (dwl) (Entered: 09/12/2024)
09/12/2024	<u>90</u>	ORDER ~ Granting <u>53</u> South Bay's Motion for Leave to File Answer or Other Responsive Pleading Out of Time. South Bay shall answer or otherwise respond to Plaintiffs initial pleading by September 19, 2024. Signed by Judge Bernard M. Jones on 9/12/2024. (dwl) (Entered: 09/12/2024)
09/12/2024	<u>91</u>	ORDER ~ Granting <u>86</u> RGG's Motion for Leave to File Answer or Other Responsive Pleading Out of Time. RGG shall answer or otherwise respond to Plaintiff's initial pleading by September 19, 2024. Signed by Judge Bernard M. Jones on 9/12/2024. (dwl) (Entered: 09/12/2024)
09/13/2024	<u>92</u>	ORDER ~ Plaintiff's Motion for Extension of Time <u>70</u> is GRANTED IN PART and DENIED IN PART, and HLV's Motion to Strike <u>82</u> is GRANTED. Plaintiff's Supplemental Brief to Plaintiff's Opposition to All Motions to Dismiss <u>76</u> is STRICKEN. Signed by Judge Bernard M. Jones on 9/13/2024. (dwl) (Entered: 09/13/2024)
09/19/2024	<u>93</u>	MOTION to Dismiss by Reagan Gold Group LLC. (Tifft, Aaron) (Entered: 09/19/2024)
09/19/2024	<u>94</u>	MOTION to Dismiss by South Bay Galleries LLC. (Tifft, Aaron) (Entered: 09/19/2024)
10/29/2024	<u>95</u>	NOTICE OF APPEAL as to <u>88</u> Order on Motion for Order, by Anthony Trupia. (naa) (Entered: 10/29/2024)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

ANTHONY TRUPIA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-24-498-J
)	
HERITAGE HARD ASSETS LLC, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff, proceeding pro se, initiated this action on April 22, 2024, asserting various claims against a litany of entities and individuals across the country. His claims largely revolve around his receipt of an increased number of spam calls since signing up for a government-subsidized phone service. Several parties have moved to dismiss.

Presently before the Court is Plaintiff's Motion Challenging Constitutionality of Federal Rule of Civil Procedure and Local Court Rules, (Pl.'s Mot.) [Doc. No. 37],¹ to which no party responded. Citing the Fourteenth Amendment,² the motion raises an as-applied constitutional challenge to Federal Rule of Civil Procedure 5(d)(3)(B)(i) and a facial constitutional challenge to §§ I(A)(1) and III(B) of this Court's Electronic Filing Policies & Procedures Manual.³ *See id.* at

¹ All page citations refer to the Court's CM/ECF pagination.

² Though Plaintiff repeatedly invokes the Fourteenth Amendment, it "applies only to state action." *Gray v. Univ. of Colo. Hosp. Auth.*, 672 F.3d 909, 927 (10th Cir. 2012). Because Plaintiff's constitutional challenge targets a Federal Rule of Civil Procedure and electronic-filing policies of a federal court, it falls under the purview of the Fifth Amendment. *Smith v. Kitchen*, 156 F.3d 1025, 1028 (10th Cir. 1997) ("From the earliest interpretations of this amendment, courts have agreed that the Fifth Amendment protects against actions by the federal government."). Nevertheless, the legal analysis remains largely the same.

³ As a general matter, a party "may challenge the constitutionality of a statute by asserting a facial challenge, an as-applied challenge, or both." *United States v. Carel*, 668 F.3d 1211, 1217

3 (“[Rule] 5(d)(3)(B)(i) is unconstitutional as applied, and . . . Policy Rules § I(A)(1) and § III(B) are unconstitutional facially. There are many legal precedents and angles that confirm this, chief among them, the 14th Amendment to the Constitution of the United States.”).

Rule 5(d)(3)(B)(i) provides that pro se litigants “may file electronically only if allowed by court order or by local rule.” Fed. R. Civ. P. 5(d)(3)(B)(i). Sections I(A)(1) and III(B) require that pro se litigants file paper documents. *See* ECF Policies & Procedures Manual, §§ I(A)(1), III(B). Section I(A)(3) adds, however, that “[t]he assigned judge may modify these procedures in specific cases . . . if deemed appropriate.” *Id.*, § I(A)(3). On June 7, 2024, the Court denied Plaintiff’s request to file documents electronically using the Court’s electronic case filing system, finding “no reason to except Plaintiff from the usual restrictions that prohibit electronic filings by pro se litigants.” [Doc. No. 34] at 2.

Plaintiff’s present motion starts by referencing that denial, acknowledging that the Court inquired about his “special reason” for using the electronic case filing system, to which he responds that “he has no special reason and . . . needs no special reason.” Pl.’s Mot. at 3 (emphasis omitted). He then insists that Rule 5(d)(3)(B)(i) and §§ I(A)(1) and III(B) violate his constitutional right to access the courts, going oddly as far as to compare them to Jim Crow laws. *See id.* at 10 (“Each attorney reading this motion should be able to clearly see that this rule is an archaic leftover of Jim Crow laws, should be categorically opposed to any homage to that era, and is professionally obligated to put their fingers to the keyboard to challenge such an archaic,

(10th Cir. 2011). A party “cannot succeed on a facial challenge unless he establishes that no set of circumstances exists under which the law would be valid, or he shows that the law lacks a plainly legitimate sweep.” *Moody v. NetChoice, LLC*, 144 S. Ct. 2383, 2397 (2024) (brackets and internal quotation marks omitted). “In contrast, an as-applied challenge concedes that the statute may be constitutional in many of its applications, but contends that it is not so under the particular circumstances of the case.” *Carel*, 668 F.3d at 1217 (brackets, emphasis, and internal quotation marks omitted).

unfair, and illegal rule for the preservation of the rights of the public and their own profession.”); *see also id.* at 5 (“Plaintiff is a white, male, property owner. The segregationists, which believed access to the full benefits of the law only belonged to people in this classification, have taken their absurd beliefs and this fight against rational modern thinking so far 100 years later that they find themselves full circle, attempting to bar even white, male property owners from accessing court services.” (emphasis omitted)).

“The Federal Rules of Civil Procedure, promulgated by the Supreme Court under the Rules Enabling Act, 28 U.S.C. § 2072, derive from a valid delegation of legislative authority,” *Violette v. P.A. Days, Inc.*, 427 F.3d 1015, 1017 (6th Cir. 2005) (citing *Sibbach v. Wilson & Co.*, 312 U.S. 1, 9–10 (1941)), and enjoy “presumptive validity under both the constitutional and statutory constraints,” *Burlington N. R.R. Co. v. Woods*, 480 U.S. 1, 6 (1987). Federal Rule of Civil Procedure 83 authorizes federal district courts to adopt local rules and regulate practice, provided they do not conflict with the Federal Rules of Civil Procedure or other federal law. Fed. R. Civ. P. 83; *see also Martinez v. Thrifty Drug & Disc. Co.*, 593 F.2d 992, 993 (10th Cir. 1979) (observing district courts’ authority “to promulgate rules with which to run their affairs”). Amidst a number of unfocused claims, Plaintiff argues that Rule 5(d)(3)(B)(i) and §§ I(A)(1) and III(B) burden his right to access the courts. *See* Pl.’s Mot. at 4.

“The right to access the courts is one aspect of the First Amendment right to petition the government for redress, as well as a guarantee of the right to present to a court of law allegations concerning the violation of constitutional rights protected by the Due Process Clause.” *Brooks v. Colo. Dep’t of Corr.*, 730 F. App’x 628, 631 (10th Cir. 2018) (unpublished) (brackets and internal quotation marks omitted). But the right is “neither absolute nor unconditional,” *Tripathi v. Beaman*, 878 F.2d 351, 353 (10th Cir. 1989) (per curiam), and the right has been defined more

narrowly outside the context of prisoner litigation, *see Valdez v. Roybal*, 186 F. Supp. 3d 1197, 1238–46 (D.N.M. 2016) (summarizing in detail the limited application of the right to access the courts beyond the prisoner setting).

Plaintiff cites no case holding that electronic filing restrictions—like those in Rule 5(d)(3)(B)(i) and §§ I(A)(1) and III(B)—implicate the constitutional right to access the courts, nor has this Court located any. *See Oliver v. River City Process Serv., Inc.*, No. 23-cv-1739-DMS-KSC, 2024 WL 3446323, at *2 (S.D. Cal. July 17, 2024) (“Plaintiff fails to cite any authority to support his contention that e-filing is a constitutional right, nor is the Court aware of any. Rather, e-filing is a privilege which in some circumstances may be extended to self-represented parties. Although Plaintiff has a constitutional right to ‘access the courts,’ he does not have a constitutional right to file pleadings electronically.” (internal citation and quotation marks omitted)). And Plaintiff has more than demonstrated his ability to actively litigate during the early stages of these proceedings, further undermining any claim that Rule 5(d)(3)(B)(i) or this Court’s electronic filing policies impede his access to the courts. *See, e.g., Reinhardt v. Hopps*, 590 F. App’x 755, 758 (10th Cir. 2014) (unpublished) (finding denial of access to electronic filing system was not a deprivation of plaintiff’s “ability to be heard” because she “was able to access the district court through alternative means, including mail and personal delivery”); *Blackston v. Alabama*, 188 F. App’x 803, 806–07 (11th Cir. 2006) (per curiam) (unpublished) (finding plaintiffs’ due process claims based on electronic filing restrictions without merit where their filing history displayed “adequate and meaningful” access to the court throughout the proceedings); *Williams v. Curtis*, No. 3:16-CV-151-D-BH, 2017 WL 979053, at *6 (N.D. Tex. Jan. 18, 2017) (collecting cases for the proposition that “there is no denial of access to courts if alternative means of assuring access to courts were available”).

In short, the Court finds Plaintiff's ancillary constitutional challenge is without merit. His motion [Doc. No. 37] is thus DENIED.

IT IS SO ORDERED this 12th day of September, 2024.



BERNARD M. JONES
UNITED STATES DISTRICT JUDGE

FILED

OCT 29 2024

JOAN KANE, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA
BY naa DEPUTY

Form 1B

**Notice of Appeal to a Court of Appeals From an
Appealable Order of a District Court**

United States District Court for the Western
District of Oklahoma
Docket Number CIV-24-498-J

ANTHONY TRUPIA,
Plaintiff,
v.
HERITAGE HARD
ASSETS LLC; et al.,

Defendants.

Notice of Appeal

Anthony Trupia appeals to the United States Court of Appeals for the 10th Circuit from the order 88, *Denying 37 Plaintiff's Motion Challenging Constitutionality of Federal Rule of Civil Procedure and Local Court Rules*, entered on September 12th, 2024.

/s Anthony Trupia
Pro Se
605 SE 21st St
Oklahoma City, OK 73129
516-984-0142
Trupiaar@gmail.com

October 29th, 2024